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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

03 Cr. 1197 (SHS)

5 UZAIR PARACHA,

6 Defendant.

7 -----x

New York, N.Y.  
January 30, 2019  
3:30 p.m.

9  
10 Before:

11 HON. SIDNEY H. STEIN

District Judge

12  
13 APPEARANCES

14 GEOFFREY S. BERMAN

United States Attorney for the  
Southern District of New York

15 BY: KARL METZNER

16 ELIZABETH HANFT

Assistant United States Attorneys

17 JOSHUA DRATEL

18 Attorney for Defendant

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(Case called)

(In open court)

MR. METZNER: Karl Metzner and Elizabeth Hanft for the government. Good afternoon, your Honor.

THE COURT: Good afternoon.

MR. DRATEL: Good afternoon, your Honor. Joshua Dratel for Mr. Paracha, who is standing by my side.

THE COURT: Hi, good afternoon.

I received a letter from the government stating that the government had withdrawn the appeal from the order granting the Rule 33 motion providing for a new trial and, therefore, we will go to trial, and the government requested a trial date. Government, is that what you're seeking at this time?

MR. METZNER: Given that there seems to be no other alternative, your Honor, yes.

THE COURT: All right. Defense?

MR. DRATEL: At this stage, yes, your Honor, that seems to be where we're headed. In terms of a trial date though, I would like to -- I have a number of trials coming up, one of which is a little bit in flux in terms of where it's going to be in terms of the schedule.

So, I talked to Mr. Metzner, and I think we're both -- and also we have motions -- not to reinvent the wheel with what's been done before, but some other things, and obviously things that now may be available to us that weren't available

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1 to the defense 15 years ago -- but to give sufficient time for  
2 that as well.

3 THE COURT: This is quite a wind-up.

4 MR. DRATEL: But maybe like December 1, your Honor.

5 THE COURT: I think that's way, way too far.

6 MR. DRATEL: My problem is I have a trial in July, I  
7 have a trial in September. The September trial may go earlier,  
8 in May, but right now it's going to be September. If it's not  
9 --

10 THE COURT: I don't want to do this in December. The  
11 man has been incarcerated for an extended period of time.

12 MR. DRATEL: I understand, your Honor. We don't want  
13 to do it in the beginning of September, because of September  
14 11. I think the Court had the same issue back when the initial  
15 trial was held. That's the other spot that's available.

16 THE COURT: August.

17 MR. DRATEL: I have a trial July that's going to be  
18 four weeks, it starts July 8.

19 THE COURT: Is it actually going to go?

20 MR. DRATEL: Right now it's going. I mean if it  
21 changes --

22 THE COURT: What about May? April? March?

23 MR. DRATEL: I think that's too soon for the kind of  
24 motion practice that we've got.

25 Let me suggest this, your Honor. The trial that is

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1 supposed to be the end of September may be at the end of May;  
2 the judge has not decided. It was supposed to start in March,  
3 but due to some discovery issues that arose very recently it  
4 was pushed back where the judge has not made a decision.

5 THE COURT: I'm having trouble following you.

6 MR. DRATEL: Well, if it goes in May, then later on in  
7 September is available.

8 THE COURT: What about August?

9 MR. DRATEL: That's only if the July 1 gets moved. If  
10 we want to put off setting a trial date for two to three weeks  
11 until those things get ironed out, that could be possible.

12 THE COURT: Government?

13 MR. METZNER: No objection, your Honor.

14 THE COURT: Let's set it tentatively now for August.  
15 You will let me know if we can't do it in August from your  
16 standpoint.

17 MR. DRATEL: Yes.

18 THE COURT: And you will know in a couple of weeks.

19 MR. DRATEL: I will. I will.

20 THE COURT: OK. Is there any opening earlier than  
21 August?

22 MR. DRATEL: Not right now because of, you know, the  
23 possibility that I'm going to be on trial May, June and July.

24 THE COURT: When will you know about the May trial?

25 MR. DRATEL: Probably within the next couple of weeks.

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1 That's the one that I'm thinking is going to -- I will know  
2 probably by the middle of February.

3 THE COURT: All right. And then it can be put in May,  
4 correct, if the May trial goes away?

5 MR. DRATEL: If we can get everything done by then.  
6 June would be better than May. I mean if the May trial doesn't  
7 go -- if the May trial doesn't go and the July trial doesn't  
8 go, then June is available. It's a two week trial, right? I  
9 think there were nine or ten trial days including summations.

10 THE COURT: Government, do you agree with that?

11 MR. METZNER: At the longest, your Honor.

12 THE COURT: OK. So from the standpoint of my schedule  
13 June is a real possibility.

14 All right, Mr. Dratel, in simplified form tell me now  
15 what the potential options are. May if your May trial doesn't  
16 go, correct?

17 MR. DRATEL: Yes, but I think May is a little soon  
18 given what we may want to do with motions.

19 THE COURT: All right. June?

20 MR. DRATEL: June would be open, yes, if my May trial  
21 is actually September, then June would be open, and the  
22 beginning of June is probably better, because -- well, if both  
23 trials get moved, then any time in June, but if the July trial  
24 stays in July, the beginning of June would be better so that I  
25 had time before the July trial.

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1 THE COURT: All right, June is a possibility.

2 MR. DRATEL: Yes.

3 THE COURT: Then what is a possibility? August or  
4 July?

5 MR. DRATEL: August, I would say.

6 THE COURT: Pardon me?

7 MR. DRATEL: August.

8 THE COURT: August.

9 MR. DRATEL: If the July trial is still out there. If  
10 it doesn't go --

11 THE COURT: Let's set this for the beginning of  
12 August, but if it can be done in June, you'll let me and the  
13 government know that in the next couple of weeks.

14 MR. DRATEL: OK.

15 THE COURT: But I want the failsafe, the fall-back of  
16 August.

17 MR. DRATEL: OK, your Honor. Can we set a date in  
18 August?

19 THE COURT: August 5.

20 MR. DRATEL: August 5? OK. That will lock us in  
21 then.

22 THE COURT: That's what I'm trying to do. But I don't  
23 want the fact that I'm setting it in August to dissuade you  
24 from June, if your trial falls through.

25 MR. DRATEL: Once that trial is decided whether it

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1 starts May 28 or September 30, once that's decided, I will let  
2 the Court know.

3 THE COURT: And if that's not going to go on May 28,  
4 then we will set this trial down for June 10. All right? So  
5 did I say August 5?

6 MR. DRATEL: Yes.

7 THE COURT: That's what it is now, August 5. And if  
8 it can be June 10, we will then make it June 10. Right now  
9 it's August 5 at 9:30 a.m.

10 I'm going to set a very early last date for motions.  
11 You're telling me that you think there will be an array of  
12 motions; is that correct?

13 MR. DRATEL: Yes, but they will mostly be of a similar  
14 character, but yes. They will most likely have to do with  
15 access to witnesses and information.

16 THE COURT: Shall we make the deadline for motions two  
17 months before the commencement of trial?

18 MR. DRATEL: Sure, your Honor.

19 THE COURT: Government?

20 MR. METZNER: That's fine, your Honor.

21 THE COURT: All right. Two months prior to trial.  
22 And if you have them earlier give them to me earlier.

23 MR. DRATEL: Yes, because if they do involve us  
24 getting access, that would involve travel, obviously.

25 THE COURT: Now you're talking about access to

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1 Guantanamo?

2 MR. DRATEL: Yes, your Honor, most likely.

3 THE COURT: Three months prior to trial.

4 MR. DRATEL: OK, I think that makes sense.

5 THE COURT: Three months prior to trial.

6 Anything else? Government?

7 MR. METZNER: Your Honor, given that the trial date is  
8 set for August 5, at the request of the defense we would ask  
9 that you exclude time between now and that date, in the  
10 interests of justice and for trial preparation and consultation  
11 with counsel.

12 THE COURT: Defense?

13 MR. DRATEL: No objection, your Honor.

14 THE COURT: The government, having moved for an  
15 exclusion of time -- which I take to be pursuant to 18 United  
16 States Code, 3161(h)(7)(A) -- and the defense indicating it has  
17 no objection, I hereby exclude time from today until the  
18 commencement of trial on August 5.

19 I do find that the ends of justice outweigh the  
20 interests of the public and of the defendant in a speedy trial.  
21 The purpose of the exclusion is to allow the parties to prepare  
22 for trial and to attempt to resolve this if they can.

23 Now, gentlemen, we go through this conversation every  
24 time. I have no intention of involving myself in plea  
25 discussions, and I have no idea what it means when the



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1 government says, Mr. Metzner, "unfortunately, yes." I don't  
2 know what that means, but if the parties can resolve it, fine,  
3 otherwise you have a motion date and you have a trial date.  
4 All right. Thank you all.

5 MR. DRATEL: Your Honor, just two other things. One  
6 is -- and I'm not -- I'm just previewing in case we want to  
7 come to the Court -- one is just a property issue with the  
8 Bureau of Prisons. Unfortunately we are still unable to -- the  
9 Bureau of Prisons has not transferred all of Mr. Paracha's  
10 property, including the Koran he had for the entirety of his  
11 time previously for 15 years, and so we're trying to do that,  
12 and we may ask the Court --

13 THE COURT: 15 years? He has been incarcerated for  
14 longer than that.

15 MR. DRATEL: Yes.

16 THE COURT: All right, you may come to the Court.  
17 What?

18 MR. DRATEL: For assistance with the BOP.

19 THE COURT: Well, the man is entitled to a Koran.  
20 Anyone is entitled to what they use for religious purposes.  
21 Let's get it done.

22 MR. DRATEL: OK.

23 THE COURT: You can come to me for anything you want.

24 MR. DRATEL: Thank you, your Honor.

25 And also in a unique situation which I haven't had

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1 before, is because the Court vacated the convictions, there is  
2 no appeal pending, so there is technically no stay or anything  
3 in that regard. The \$500 assessment, in terms of getting that  
4 vacated, obviously it would enhance Mr. Paracha's commissary  
5 account over the next several months.

6 THE COURT: What's the position of the government?

7 MR. METZNER: I will look into it, your Honor. I have  
8 never had it.

9 THE COURT: Nor have I. Let's look into it. The  
10 parties should either come to an agreement or let me know what  
11 they find. Anything else?

12 MR. METZNER: No.

13 (Adjourned)  
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